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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,228	07/02/2003	RENATUS IGNATIUS FRANSEN	04132.0026.00US00	1227

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EXAMINER

NGUYEN, SON T

ART UNIT PAPER NUMBER

3643

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/604,228

Applicant(s)

FRANSEN ET AL.

Examiner

Son T. Nguyen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 10-18 is/are rejected.
- 7) ☒ Claim(s) 6-9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/27/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. **Claims 1-18** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 1, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1,2,4,5,12-17** are rejected under 35 U.S.C. 103(a) as being unpatentable over US 4033295 (herein 295) in view of US 5431128 (herein 128).

For claim 1, 295 teaches a milking vacuum device comprising milking vacuum source (col. 2, line 31); a milking vacuum shutting-off device 10; a pulsation vacuum unit having a pulse line portion (not shown but inherent to connect to the milking machine) and a pulsator 3; and a mounting block 8, the pulse line portion being provided on the mounting block, the block comprising a first fastening portion (at ref. 3a) and a second

fastening portion (at the end of ref. 9). However, 295 is silent about a milking machine with teat cups, liner, and pulsation space.

128 teaches a milking machine with teat cups 6, liner (inherent), and pulsation space (inherent). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a milking machine with teat cups, liner, and pulsation space as taught by 128 in the device of 295, since such known milking machine elements are notoriously well known in the art of milking machine.

For claim 2, 295 as modified by 128 (emphasis on 295) further teaches a milking vacuum connection 12.

For claim 4, 295 as modified by 128 (emphasis on 295) further teaches a compressed air connection 12.

For claim 5, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a hose portion on the vacuum shutting-off device of 295 as modified by 128, since it is well known that the shutting-off device has some sort of hose portion to connect to the vacuum line so as to shut off the vacuum source.

For claim 12, in addition to the above, 128 teaches a control unit 3 mounted on frame or block 1. It would have been obvious to one having ordinary skill in the art at the time the invention was made to mount a control unit as taught by 128 on the block of 295 in order to allow automatic control of the system.

For claim 13, it would have been obvious to one having ordinary skill in the art at the time the invention was made to manufacture the block of 295 as modified by 128 out

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of a synthetic material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious choice.

For claims 14-17, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have at least two mounting blocks, each associated with a teat cup, in the milking system of 295 as modified by 128, since it is has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. In addition, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the mounting blocks in the system of 295 as modified by 128 be detachably fastened to each other in order to save space.

5. **Claim 3** is rejected under 35 U.S.C. 103(a) as being unpatentable over 295 as modified by 128 as applied to claims 1,2 above, and further in view of US 3690300 (herein 300). 300 teaches a non-return valve that is disposed in the milking vacuum connection for the milking vacuum source. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a non-return valve as taught by 300 in the milking system of 295 as modified by 128 in order to prevent backflow of source of vacuum into the system. In addition, it would have been obvious to one having ordinary skill in the art at the time the invention was made to dispose the valve in the vacuum connection of 295 as modified by 128 & 300, since that is where the vacuum source comes in so it would make sense to dispose the valve there.

6. **Claims 10,11** are rejected under 35 U.S.C. 103(a) as being unpatentable over 295 as modified by 128 as applied to claim 1 above, and further in view of US 6598560 (herein 560).

For claim 10, 560 teaches a pressure sensor 14 for measuring the pressure in the pulse line portion (col. 3, lines 28-30). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a pressure sensor as taught by 560 in the pulse line portion of 295 as modified by 128 in order to detect pressure in the pulse line.

For claim 11, 295 as modified by 128 & 560 further teaches wherein the pressure sensor **can** be detachably fastened to the mounting block.

7. **Claim 18** is rejected under 35 U.S.C. 103(a) as being unpatentable over 295 as modified by 128 as applied to claim 1 above, and further in view of EP 801892A2 (herein 892). 892 teaches a robot arm 40 in an automatic milking system. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a robot arm as taught by 892 in the system of 295 as modified by 128 in order to provide automatic milking. Also, the mounting block of 295 as modified by 128 is capable of being detachably fastened to the robot arm if one wishes to do so.

Allowable Subject Matter

8. **Claims 6-9** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is (703) 305-0765. The examiner can normally be reached on Monday - Friday from 9:00 a.m. to 5:00 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon, can be reached at (703) 308-2574. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Customer Service at (703) 872-9325. The official fax number is 703-872-9306.



Son T. Nguyen
Primary Examiner, GAU 3643
September 29, 2004